

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Kristopher Lee Roybal; Damion John  
Gullickson, Jr.; Shawn Joseph Nelson;  
and Cameron Eugene Urban,

Case No. 24-cv-1652 (ECT/DTS)

Plaintiffs,

**REPORT AND RECOMMENDATION**

v.

Paul Schnell, Commissioner of  
Correction, sued in his official capacity,

Defendant.

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The complaint filed in this matter named sixteen prisoners of the State of Minnesota as plaintiffs. All but four of those plaintiffs— Kristopher Lee Roybal; Damion John Gullickson, Jr.; Shawn Joseph Nelson; and Cameron Eugene Urban—have been dismissed from this matter for failure to prosecute after those plaintiffs failed to apply for *in forma pauperis* (IFP) status or pay the filing fee for this matter. See Dkt. No. 26 (Report and Recommendation); Dkt. No. 30 (Order adopting Report and Recommendation). The four plaintiffs who had submitted IFP applications were each directed to pay the required initial partial filing fee for this matter within 21 days of June 27, 2024—that is, by July 18, 2024—failing which it would be recommended that any non-compliant plaintiff would be dismissed from this action without prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b).

Roybal requested (and received) an extension of that deadline until August 12, 2024, but the other three plaintiffs did not respond in any way to the Court's order establishing an initial partial filing fee. Roybal now has paid his initial partial filing fee.

The other plaintiffs, however, have not, and their deadline for doing so (which was never extended for them beyond July 18, 2024) has now passed. Accordingly, this Court now recommends, consistent with the warning previously given to Gullickson, Nelson, and Urban, that those plaintiffs be dismissed without prejudice from this action under Rule 41(b) for failure to prosecute. *See Wewerka v. Roper*, 431 F. App'x 517, 517 (8th Cir. 2011) (per curiam) (affirming dismissal without prejudice pursuant to Rule 41(b) following prisoner's failure to pay initial partial filing fee). The IFP applications filed by each of those plaintiffs may be denied as moot should those plaintiffs be dismissed from this action for failure to prosecute. Roybal's application to proceed IFP will be granted by separate order.

### RECOMMENDATION

For the reasons set forth above, the Court RECOMMENDS THAT:

1. Plaintiffs Damion John Gullickson, Jr.; Shawn Joseph Nelson; and Cameron Eugene Urban be **DISMISSED WITHOUT PREJUDICE** from this action.
2. Gullickson's application to proceed *in forma pauperis* [Dkt. No. 22] be **DENIED AS MOOT**.
3. Nelson's application to proceed *in forma pauperis* [Dkt. No. 23] be **DENIED AS MOOT**.
4. Urban's application to proceed *in forma pauperis* [Dkt. No. 24] be **DENIED AS MOOT**.

Dated: August 7, 2024

s/David T. Schultz  
DAVID T. SCHULTZ  
U.S. Magistrate Judge

## NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).